IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 98 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DILIPKUMAR RATILAL MEHTA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 98 of 2001

MR ZUBIN F BHARDA for Petitioner No. 1

MR DP JOSHI, PUBLIC PROSECUTOR for Respondent No. 1

MR BS SUPEHIA for Respondent No. 2-5

MR JL CHAUHAN for Respondent No. 2-5

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 12/07/2001

ORAL JUDGEMENT

#. In this revision, the impugned order dated 1-3-2001 of Judicial Magistrate, Navsari is under challenge. Through this order, the learned Magistrate has allowed

the application of the four owners of the seized cattle, namely, goats and sheep numbering 885 on certain conditions, during pendency of a case under sec.11(A)(D)(E)(H) of Prevention of Cruelty to the Animals Act, 1960. The revision has been filed by the complainant, on whose motion the trucks carrying the cattle were seized and the cattle were recovered and given to Panjrapole ultimately for safe keeping. The four owners moved an application for release of cattle in their favour. After hearing the owners and the learned APP, the impugned order was passed with certain conditions. The complainant, feeling aggrieved, has filed this revision. Shri Bharda, learned counsel for the revisionist and Shri BS Supheia for respondent nos.2 to 5 and Shri DP Joshi, learned APP for respondent no.1 have been heard.

#. A preliminary objection has been raised by Shri Supheia that the revision, at the instance of third party, is not maintainable. Shri Bharda has objected to this preliminary objection. However, through a detailed order passed by this Court on 8-3-2001, the revision was admitted, hence, it is desirable to decide the revision on merits instead of on this preliminary objection at this stage.

#. Shri Bharda, learned counsel for the revisionist is not only aggrieved against the order dated 3-3-2001 but also against the another order of the same date, whereby the learned Magistrate has rejected the application of the complainant with observation that the applicant is a stranger to this litigation, hence, he has no right to file the said application.

#. The dispute centers in a narrow compass. There is no dispute that the applicant nos.1 to 4, who applied for release of cattle in their favour, are not owners thereof. The complainant, revisionist is not claiming ownership in the cattle. The learned Magistrate committed no illegality in ordering release of cattle in favour of the owners. The cattle could not, in the interest of justice, be given to the accused. Shri Bharda is, however, concerned with the conditions imposed by the learned Magistrate in the impugned order. His anxiety is that the cattle have been removed beyond the jurisdiction of the Court of the Magistrate, and that no sufficient safeguards have been observed in the impugned order as to whether the cattle will be produced before the learned Magistrate at the time of trial or not, and also, in what manner the cattle are to be preserved. This grievance and anxiety of the learned counsel for the

revisionist is appreciable in the interest of the cattle and also in the interest of the trial.

#. As such, there is no reason or ground for quashing the impugned order. Condition nos.1 and 2 in the impugned order shall remain intact, so also, the order for delivery of cattle to the four owners. However, the following further conditions are imposed, which have to be complied with by the applicants, owner nos.1 to 4 :

Condition No.3
The cattle so received by the applicant nos.1 to 4 shall be kept by them at a safe place within the territorial jurisdiction of the learned Magistrate and shall not take them away from the territorial jurisdiction of the Magistrate.

Condition No.4
The applicants, owner nos.1 to 4 shall take all steps to preserve the cattle and shall not sell and dispose of the cattle without prior permission of the Magistrate.

Condition No.5
The cattle so given to applicant nos.1 to 4 shall be produced by them before the learned Magistrate at the time of trial, as and when required by him, to be produced before him.

Condition No.6
In case, during pendency of the trial, any cattle dies of natural death, intimation of the same shall be given by the applicants to the learned Magistrate.

#. With these added conditions, the revision stands dispose of. Direct service is permitted.

July 12, 2001. (D.C. Srivastava, J.)

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